HIGH COURT OF MADHYA PRADESH

W.P. No. 18087/2020

(SHIV BAHADUR SINGH AND OTHERS Vs. THE STATE OF MADHYA PRADESH AND OTHERS)

PRESENT : HON. SMT. NANDITA DUBEY, J (THROUGH VIDEO CONFERENCING)

Jabalpur, Dated : 16.12.2020

Shri S.K. Singh, learned counsel for the petitioners.

Shri Pratyush Shrivastava, learned Panel Lawyer for the respondent/State.

The petitioners have been classified as permanent by an order dated 07.02.2004 (Annexure-P/2) and their grievance is that they have not been paid minimum of the pay scale without increments by the respondents.

Learned counsel for the petitioners has placed reliance upon a judgment delivered by the Apex Court in the case of **Ram Naresh Rawat Vs. Ashwini Devi and others** reported (2017) 3 SCC 436 : 2017 (153) FLR 609 wherein it has been held as under :

> *"21. It is, thus, somewhat puzzling as to whether the employee, on getting the designation of 'permanent employee' can be treated as 'regular' employee. This answer does not flow from the reading of the Standing Orders Act and Rules. In common parlance, normally, a person who is known as 'permanent employee' would be treated as a regular employee but it does not appear to be exactly that kind of situation in the instant case when we find that merely after completing six months' service an employee gets right to be treated as 'permanent employee'. Moreover, this Court has, as would be noticed*

now, drawn a distinction between 'permanent employee' and 'regular employee'.

22. We may mention, at this stage that this aspect has come up for consideration, in another context, in State of Madhya Pradesh and Others vs. Dilip Singh Patel and Others[8]. That was a case where similarly situated employees, who were classified as 'permanent employees' under the Standing Orders Act, were given minimum of the pay-scale attached to their posts. However, after the implementation of Sixth Pay Commission, benefits thereof were not extended to these employees. High Court held that they would be entitled to have their pay fixed as per the revised scales in accordance with the recommendations of Sixth Pay Commission which were accepted qua regular employees. This Court, though, upheld the orders of the High Court giving them the benefit of revision of pay-scale pertained to Sixth Pay Commission, but at the same time made it clear that they would be entitled to minimum salary and allowances as per the said revised scales and would not be entitled to any increments. It was further held that such increments would be admissible only after regularisation of their services which regularisation was to take place as per the seniority list with due procedure. Following passage from the said judgment, which captures the aforesaid directions, is quoted hereunder:

> *"We have heard learned counsel for the parties and perused the records. It appears that the respondents earlier moved before the Administrative*

Tribunal, Gwalior by filing original applications such as O.A. No. 648 of 1995, O.A. No. 293 of 1991 etc. In compliance of the orders passed in such original applications, the Chief Engineer, Yamuna Kachhar, Water Resources Department, Gwalior (M.P.)(by orders issued in between April,. 2004 and June, 2004 provided the minimum wages and allowances to the respondents without increment as per the Schedule of the pay scale from the date of the order of the Tribunal. It was further ordered that the regularization of the daily wages employees shall be made as per the seniority list with due procedure and the benefit of increment and other benefits can only be granted after the regularisation as per the Rules. It was ordered that the order of the Court for benefit of minimum wages and allowances shall be .....

"From the aforesaid facts, it is clear that the respondents are entitled for minimum wages and allowance as per the fixed Schedule of the pay scale but without any increment. In such case, if the pay scale is revised from time to time including the payscale as revised pursuant to Sixth Pay Commission, the respondents will be entitled to minimum wages and allowance as per the said revised scale without increment. Only after regularisation of their service, as per seniority and rules, they can claim the benefit of increment and other benefits.

> *"23. From the aforesaid, it follows that though a 'permanent employee' has right to receive pay in the graded pay-scale, at the same time, he would be getting only minimum of the said pay-scale with no increments. It is only the regularisation in service which would entail grant of increments etc. in the pay-scale."*

Learned Panel Lawyer has not disputed aforesaid judgment.

Not only this, this Court has also granted similar benefits and the order passed in W.P. No.12210/2017 dated 17.08.2017 in the case of Chandrabhushan Prasad Dwivedi Vs. The State of Madhya Pradesh, is also on record.

Resultantly, the present petition is disposed of with a direction to the respondents to grant minimum of the pay scale with no increment to the petitioners from the date of their classification. The exercise of granting the benefit be concluded within a period of three months from the date of receipt of the certified copy of this order.

The petitioners shall also be entitled for arrears of salary by taking into account their classification which was done on 07.02.2004.

The petition stands **disposed of.**

(Nandita Dubey)
Judge

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